

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Auction of Priority Access Licenses for the)	AU Docket No. 19-244
3550-3650 Band (Auction 105))	

**REPLY COMMENTS
of
NTCA–THE RURAL BROADBAND ASSOCIATION**

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby submits these reply comments addressing responses to the *Public Notice* issued by the Federal Communications Commission (“Commission”) in the above-captioned docket.² The *Public Notice* seeks comment on competitive bidding procedures for Auction 105, the auction of Priority Access Licenses (“PALs”) in the 3550-3650 MHz band. The record indicates a near unanimous opposition to the *Public Notice* proposal to utilize Cellular Market Area (“CMA”)-level bidding³ for the top 172 CMAs in Auction 105. As discussed further below, commenters representing a broad cross-section of the industry⁴ argue that the *Public Notice* proposal is too complex, would undermine

¹ NTCA is an industry association composed of nearly 850 rural local exchange carriers (“RLECs”). While these entities were traditional rate-of-return-regulated telecommunications companies and “rural telephone companies” as defined in the Communications Act of 1934, as amended, all of NTCA’s members today provide a mix of advanced telecommunications and broadband services, and many also provide video or wireless services to the rural communities they serve.

² *Auction of Priority Access Licenses for the 3550-3650 Band, Comment Sought on Competitive Bidding Procedures for Auction 105*, AU Docket No. 19-244, Public Notice, FCC 19-96 (rel. Sept. 27, 2019) (“*Public Notice*”).

³ *Id.*, ¶¶ 29-33.

⁴ Comments of New America’s Open Technology Institute (“OTI”), AU Docket No. 19-244 (fil. Oct. 28, 2019); Comments of Verizon, AU Docket No. 19-244 (fil. Oct. 28, 2019); Comments of NCTA – The Internet & Television Association (“NCTA”), AU Docket No. 19-244 (fil. Oct. 28, 2019); Comments of the Blooston Rural Carriers, AU Docket No. 19-244 (fil. Oct. 28, 2019); Comments of the Rural Wireless Association, Inc. (“RWA”), AU Docket No. 19-244 (fil. Oct. 28, 2019); Comments of the Wireless Internet Service Providers Association (“WISPA”), AU Docket No. 19-244 (fil. Oct. 28, 2019); Comments of the National Rural Electric Cooperative Association (“NRECA”), AU Docket No. 19-244 (fil. Oct. 28, 2019); Comments of the Dynamic Spectrum Alliance (“DSA”), AU Docket No. 19-244 (fil. Oct. 28, 2019); Comments of the Competitive Carriers Association (“CCA”), AU Docket No. 19-244 (fil. Oct. 28, 2019).

the goals of Auction 105, and would limit small, rural, and regional carriers' ability to compete effectively at auction for this valuable spectrum. The Commission should therefore move forward with Auction 105 utilizing county-based license areas only.

Like NTCA, a number of parties recognize that the *Public Notice* proposal will ultimately harm rural consumers. CCA, for example, recognizes that the incentives for larger bidding entities created by the *Public Notice* proposal could preclude small operators from effectively participating in Auction 105. As CCA notes, a “large nationwide mobile carrier opting for CMA-level bidding...must be willing to over-bid in a CMA’s least-densely populated county in order to protect its interest in the multiple more-densely populated counties in a CMA—even if it has no intention of meeting the needs of the rural parts of the CMA.”⁵ As CCA goes on to note, “[t]he regulatory price distortion that CMA-level bidding could create therefore risks crowding out the smaller regional or rural carriers most interested in building out robust networks in rural counties rather than merely the minimum needed to meet the FCC’s buildout requirements.”⁶ In other words, small and regional wireless providers could be effectively shut out from the auction before it even commences, and consumers living in the least densely populated portions of these CMAs will pay the price in terms of not having access to the types of services the spectrum at issue can deliver. OTI, for its part, states that the *Public Notice* proposal “will in practice promote a strategy by the largest mobile carriers to price out smaller entities [and] distort the market – and effectively rig the auction in a manner, whether intended or not, that harms rural and small town consumers and firms.”⁷

⁵ CCA. p. 4.

⁶ *Id.*, p. 5.

⁷ OTI, p. 6. *See also* WISPA, p. 4 (stating that “because a CMA-level bidder will need to be the high bidder for at least one PAL in each constituent county in the CMA, it will necessarily bid aggressively in the rural counties where the overall cost would otherwise be less, and factor that additional cost across the entire CMA. By contrast, a

Those parties addressing the *Public Notice* proposal also point to the unnecessary complexities and unintended consequences it will produce, and note as well that CMA-level bidding as proposed may not even achieve the goals intended by the Commission. For example, as to that latter point, Verizon argues that despite the *Public Notice* statement that CMA-level bidding would “give greater bidding flexibility to bidders interested in serving areas larger than a county,”⁸ the opposite would be true. Specifically, as Verizon states, the “proposed CMA-level bidding procedure would require a bidder to make an election for CMA-level bids well before the auction begins and would lock that bidder in to CMA-level bids throughout the auction.”⁹ Thus bidder flexibility would suffer, contrary to the Commission’s intent.

Turning to unintended consequences, NCTA’s comments on the *Public Notice* are instructive. As NCTA discusses in detail, the CMA-level bidding proposal could produce “strong incentives to engage in gamesmanship and strategic ‘price-steering’ to counties in which a bidder has no genuine interest in order to displace CMA-level demand.”¹⁰ NCTA also recognizes that the CMA-level bidding proposal could leave several PALs unsold, and this despite demand from county-level bidders.¹¹ Finally, NCTA sums it up well by stating that “[a]lthough there will be a large number of licenses available as compared to prior auctions, it will be relatively easy – particularly for large, sophisticated bidders that wish to operate over areas larger than counties – to successfully aggregate a synergistic package using the same simple, time-tested bidding strategies employed in spectrum auctions in which package bidding

small WISP that desires only the rural county in the CMA would face higher prices from a deep-pocketed bidder and have little or no chance of obtaining PAL spectrum.”).

⁸ *Public Notice*, p. 25.

⁹ Verizon, p. 3.

¹⁰ NCTA, p. 8.

¹¹ *Id.* p. 9.

was not permitted.”¹² In other words, not only will the CMA-level bidding produce the complexities and unintended consequences discussed above, it is also unnecessary: providers interested in an aggregation of counties can still achieve such an outcome under a county-level bidding scheme that does not inherently favor larger carriers to the detriment of small or regional providers.

NTCA, for its part, has consistently advocated for licensing rules in Auction 105 that accommodate a wide range of potential users¹³ – and county-level bidding does just that. Unfortunately, only deep-pocketed larger and mid-size wireless providers will have the resources to bid on large geographic areas in Auction 105, and thus the *Public Notice* proposal is likely to leave a large number of rural consumers without access to the types of services that the spectrum available in Auction 105 can make available. This result, as well as the complexities and unintended consequences that are likely to flow from the *Public Notice* proposal, should cause the Commission to abandon its proposal and move forward with Auction 105 with county-level license areas. County-level bidding would promote the availability of services in rural areas specifically and the goals of a more competitive auction among bidders large and small more generally, and would at the same time allow larger providers to aggregate counties into larger service areas but without a built-in advantage to the detriment of smaller operators.

¹² *Id.*, p. 12.

¹³ Reply comments of NTCA–The Rural Broadband Association, GN Docket No. 17-258 (fil. Jan. 29, 2018), p. 4; Comments of NTCA–The Rural Broadband Association, GN Docket No. 17-258 (fil. Dec. 28, 2017), p. 5.



By: /s/ Michael R. Romano
Michael R. Romano
Senior Vice President –
Industry Affairs & Business Development
mromano@ntca.org

By: /s/ Brian Ford
Brian Ford
Director of Industry Affairs
bford@ntca.org

4121 Wilson Boulevard, Suite 1000
Arlington, VA 22203

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